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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

15 | IN RE TEZOS SECURITIES LITIGATION

Master File No. 17-cv-06779-RS

17 | This document relates to:

CLASS ACTION

18 ALL ACTIONS.

18 ALL ACTIONS.

**PLAINTIFFS' ADMINISTRATIVE
MOTION FOR LEAVE TO FILE A
RESPONSE TO THE DECLARATIONS
OF ARTHUR BREITMAN AND
KATHLEEN BREITMAN CONCERNING
ASSERTION OF MARITAL
COMMUNICATIONS PRIVILEGE**

[*Proposed Order and Declaration of Hung G. Ta filed concurrently herewith*]

Judge: Hon. Sallie Kim
Trial Date: Not Yet Set

Pursuant to Civil Local Rule 7-11, Plaintiffs hereby submit this administrative motion (“Administrative Motion”) for an order permitting Plaintiffs to file a response to the declarations of Arthur Breitman and Kathleen Breitman concerning the assertion of the marital communications privilege. *See* Dkt. Nos. 233 (“AB Decl.”); 234 (“KB Decl.”) (collectively, the “Declarations”).

The basis of this Administrative Motion is that the Declarations raise numerous unanswered questions concerning the alleged confidentiality of the communications exchanged by the Breitmans using their work email addresses. Among other things:

- The Declarations state that the Breitmans were the only directors, officers, or employees of DLS, and that DLS was a “two-person operation.” *See* AB Decl. ¶¶ 4, 7; KB Decl. ¶¶ 4, 7. However, DLS’s document production reveals that a number of other individuals possessed or otherwise had access to “@tezos.com” email addresses, including but not limited to: “Ross Kenyon,” listed next to the “support@tezos.com” email address; Charlie Wiser, with an email address charlie.wiser@tezos.com, and Alison Mangiero, with an email address alison.mangiero@tezos.com.
- The Declarations state that the Chief Security Officer of a *third-party* organization, the Tezos Foundation, had access to the Breitmans’ DLS email accounts. *See* AB Decl. ¶ 5, KB Decl. ¶ 5.
- Arthur Breitman’s declaration states that there is an alleged agreement with the Tezos Foundation not to access his or Kathleen Breitman’s emails, but fails to attach any documentary evidence of such agreement. *See* AB Decl. ¶ 5.

Plaintiffs believe that they should be given a fair opportunity to respond to the Declarations and address the above, as well as other, issues raised by the conclusory statements set forth therein. Plaintiffs believe these issues are highly relevant to the determination of whether the Breitmans’ work email communications were confidential. Accordingly, Plaintiffs respectfully request that the Court grant them permission to file a response no longer than 5 pages within 5 days of the issuance of its order.

As set forth in the accompanying declaration of Hung G. Ta, Plaintiffs could not obtain a stipulation concerning this administrative motion because the Court’s order permitting the Breitmans

1 to submit the Declarations (Dkt. No. 232) does not afford Plaintiffs an opportunity to respond and no
2 other rule or statute otherwise permits a response.

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4 Respectfully Submitted,

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Date: July 25, 2019

HUNG G. TA, ESQ. PLLC

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By: /s/ Hung G. Ta

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Court-Appointed Co-Lead Counsel

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FILER'S ATTESTATION

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Pursuant to Civil L.R. 5-1(i)(3), regarding signatures, Enoch H. Liang hereby attests that
concurrence in the filing of the documents has been obtained from the signatories above.

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Date: July 25, 2019

By: /s/ Enoch H. Liang

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Enoch H. Liang

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